

THE HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.15688 of 2006

ORDER :

Heard the learned counsel.

The writ petition is filed praying for a Writ, Order, or direction, more in the nature of the writ of Certiorari calling for the records relating to the impugned rejection order vide Proceedings Nos.112/1280/97-FF(HC)(A), dated 04-05-2006; 112/214/96-FF(HC)(A), dated 21-04-2006 and 112/849/97-FF(HC)(A), dated 04-05-2006, issued by the first respondent and set aside the same by duly declaring the action of the respondents in issuing the impugned proceedings as illegal, arbitrary and discrimination being violative of Articles 14 and 21 of the Constitution of India and pass such other orders.

It is stated that petitioners' applications for grant of Freedom Fighters Pension had been considered by the Hyderabad Special Screening Committee and recommended for sanction of Samman Pension in the year 1997-98 vide File Nos.112/1280-FF (HC)(A); 112/214/96-FF(HC)(P) and 112/849/97-FF(HC)(A) respectively. The State Government had also submitted verification and entitlement reports recommending their cases for grant of Freedom Fighters Pension. But, erroneously and arbitrarily the respondents rejected their cases for grant of Freedom Fighters Pension vide Proc.Nos.112/1280/97-FF(HC)(A), dated 07-08-2003; 112/214/96-FF(HC)(P), dated 09-07-2003 and 112/849/97-FF(HC)(A), dated 05-01-2004 respectively on the ground that the camp-in-charge certificate issued by Sri Ravella Janaki Ramaiah had not

been accepted as it was a communist camp. Aggrieved by which, first petitioner alone filed W.P.No.18259 of 2003 before this Hon'ble Court questioning the impugned proceedings dated 07-08-2003 and the same is pending. It is further stated that while things stood thus, the respondents herein again reconsidered and accepted the Communist Camp of Sri Ravella Janaki Ramaiah and taken a decision to issue sanction proceedings granting Freedom Fighters Pension vide Proc.No.282/SR/HC/99-FF(HC), dated 28-01-2005, of the Director (FF-II), Ministry of Home Affairs. Then, they submitted representation in registered post on 24-01-2005, 27-01-2005 and 24-01-2005 respectively to the first respondent herein. But, the respondents herein had not considered their representations and granted the Freedom Fighters Pension. Aggrieved by which, they filed W.P.No.9999 of 2005, which had been disposed of on 15-09-2005 directing the respondents herein to consider their cases within a period of three months from the date of receipt of the order. But, the respondents herein had not taken any steps to consider their cases as directed by this Court, though their counsel had issued a legal notice on 02-01-2006. At that juncture, they constrained to file a Contempt Case No.320 of 2006, in which, notice had been ordered during the last week of March, 2006. Thereafter, the present impugned proceedings had been passed by the respondents rejecting their cases for grant of Freedom Fighters Pension on frivolous grounds.

The petitioners respectfully submit that the respondents had admitted the fact that their cases had been considered by the Hyderabad Special Screening

Committee and recommended for grant of Freedom Fighters Pension. But, the respondents had taken a ground that it was not a valid recommendation on the ground that the date of receipt of their applications, age/date of birth etc., had not mentioned in the recommendation cases. It is stated that it is pertinent to mention that the said recommendation slips/forms had to be filled up by the Home Ministry enclosing the applications submitted by them after giving file number to their applications respectively and then only the applications ought to have been placed before the Hyderabad Special Screening Committee to consider their cases for recommendation. They cannot be penalized for the mistake done by the Home Ministry. That apart, the applications submitted by the petitioners would be enclosed to the recommendation slip, which would be the total particulars of their age, residential address and the activities in which they participated during the course of Nizam Movement and also an affidavit given by them including a Border Camp Certificate issued by the recognized camp in-charge. It is further stated that the committee would be recommended every case only after going through the applications and identified by any one of the members and after discussions among the members only all the members would be signed on the recommended slip either saying recommended or rejected. In their cases, after going through their total particulars and genuineness of their claim, the committee had recommended their cases. Therefore, the legal ground taken by the respondents is vitiated in the eye of law. The respondents had also taken another ground that the signatures of the committee members were undated.

The undated signatures would not vitiate the recommendation. The reason is that every day a list of applications including the names with file numbers would be placed before the screening committee that is called as agenda of the committee which has to be considered by the committee on particular date. Out of that agenda, the committee would consider and recommend the applications and the agenda date is only the date of recommendation of their applications. Therefore, the specific date under the signature of committee members is not required. Not only in their cases, in all 10000 recommended cases, no application contains the date under the signatures of committee members. The respondents had taken this type of illegal and arbitrary ground for rejecting their cases after sanctioning nearly more than 7000 applications based on the same and similar recommendations made by the Hyderabad Special Screening Committee. The Hon'ble Supreme Court had already held that the Freedom Fighters Pension cannot be rejected on technical grounds. *Prima facie* their applications had been accepted by the respondents after thorough verification only and had been numbered as File Nos.(1) 112/1280/97-FF(HC)(A); (2) 112/214/96-FF(HC)(OP) and (3) 112/849/97-FF(HC)(A) respectively. And placed before the Hyderabad Special Screening Committee including their names in the agenda and then only the committee had considered and recommended for grant of Freedom Fighters Pension. The respondents had also accepted and recommended their names along with other 9000 cases to the State Government for submission of verification and entitlement reports and based on the verification and entitlement reports, the respondents had

passed rejection orders vide File Nos.112/1280/97-FF(HC)(C), dated 07-08-2003 (in case of 1st petitioner); 112/214/96/FF(P)-(HC)(P), dated 09-07-2003 and 112/849/97-FF(HC)(A) dated 05-01-2004 (in case of third petitioner) on the ground that the Camp in charge certificate issued by Sri Ravella Janakiramaiah is not recognized one. At that juncture, the present grounds taken in the impugned proceedings had not raised. After the receipt of the rejection order, the certificate issued by Sri Ravella Janakiramaiah had been recommended by the respondents vide Proc.No.282/SR/HC/99-FF (HC), dated 28-01-2006. That apart, insofar as first petitioner's case is concerned, the respondents had accepted the recommendations and issued preliminary proceedings to him in File No.112/1280/97-FF (HC), dated 22-01-1998, directing him to submit descriptive rolls for issuing final orders. Accordingly, he had submitted the descriptive rolls. At that juncture, his case had also forwarded to the State Government for submission of verification report and entitlement report along with others. Therefore, the respondents had no jurisdiction to raise such a technical, illegal and arbitrary objection for sanction of Freedom Fighters Pension on par with similarly situated persons. Therefore, the impugned rejection orders are liable to be set aside by holding that petitioners are entitled for sanction of Freedom Fighters Pension with effect from 07-08-2003; 09-07-2003 and 05-01-2004 respectively, the dates on which their cases were initially rejected on the ground that the Camp in-charge certificate submitted by them was not a recognized one. The respondents had considered and sanctioned the

Freedom Fighters Pension with effect from the date on which the file had been considered initially. In all other recommended cases, they are drawing the Freedom Fighters Pension from the year 2002 onwards with all consequential arrears and enjoying other benefits. But, petitioners are being deprived of all benefits in view of the illegal and arbitrary orders passed by the respondents.

Further it is submitted that though their case had been recommended by the Screening Committee in the year 1997-1998, the respondents had taken their own time to refer their cases to the State Government for verification and entitlement report and the State Government had taken their own time to conduct enquiry and to submit verification reports in view of issuing amending instructions by the respondents to submit the reports. Therefore, the State Government had submitted their enquiry reports in the year 2003 i.e., five years after recommendation for grant of Freedom Fighters Pension. But, erroneously and arbitrarily the respondents had rejected their case for grant of Freedom Fighters Pension on the ground that the camp-in-charge certificate submitted by them had not been recognized one. In fact, right from 1986 i.e., from the date of constituting the Hyderabad Special Screening Committee, the camp of Sri Ravella Janakiramaiah is accepted and sanctioned Freedom Fighters Pension. Therefore, the present Government had taken a right decision recognizing the camp of Sri Ravella Janaki Ramaiah. In view of the same, even seven years after recommendation of their cases, the respondents are taking their own time to sanction the Freedom Fighters Pension on par with similarly situated

persons and thereby they are deprived drawing the pension and other benefits from the date of recommendation of their cases by the Screening Committee. Therefore, they are entitled to draw the pension with effect from the date of recommendation of their cases with all consequential benefits. Hence, it is stated that the inaction of the respondents is liable to be interdicted by holding that petitioners are entitled to be granted the Freedom Fighters Pension with effect from the date on which their cases had been recommended by the Screening Committee with all consequential arrears and the action of the respondents as illegal, arbitrary and violation of Articles 14 and 21 of the Constitution of India.

It is further stated that the respondents are sanctioning the Freedom Fighters Pension only with effect from the date of approval of the file. That is only prospectively by stating that the pension sanction had been approved under benefit of doubt. In this connection, they submit that the respondents had no jurisdiction to sanction their pension under benefit of doubt as there is no such provision to sanction pension under the scheme. They submit that their applications had been primarily scrutinized and verified by the respondents and then only their applications had been included in the list, which is called as Agenda and placed before the Hyderabad Special Screening Committee. Then the committee consisting of more than ten members again scrutinized and based on their personal knowledge their cases had been recommended by the Screening Committee. But, unfortunately, only the cases recommended in the year 1997-1998 had been referred to the State Government to find out the genuinity of their claim and for submission of

verification and entitlement report. The respondents had also further issued instructions that they had to furnish three affidavits, namely, personal affidavit, an affidavit of camp in-charge and also an affidavit of freedom fighter, who suffered more than six months imprisonment during the Nizam Movement and all these affidavits had to be attested not below the rank of judicial/Executive magistrate. Accordingly, they submitted all the affidavits and also other documents and faced the enquiry and explained the events in which they were participated during the Nizam Movement for merger of Hyderabad State into Indian Union. That is only after thorough scrutiny of their applications by the respondents and recommendation made by the Hyderabad Special Screening Committee and submitting all required affidavits and documents as per the respondents instructions before the enquiry officer, facing enquiry, recommendation by the District Collector and by State Government the respondents are sanctioning the Freedom Fighters Pension. Therefore, the respondents had no jurisdiction to say that their cases are sanctioned under benefit of doubt. Therefore, there is no justification and reason in classifying their cases arbitrary for grant of Freedom Fighters Pension and sanctioning the pension prospectively. Therefore, the action of the respondents is liable to be interdicted by holding that they are entitled for Freedom Fighters Pension even at least from the date of recommendation of their cases by the Hyderabad Special Screening Committee.

It is further stated that they cannot be penalized for the administrative delay happened due to the arbitrary and illegal actions. Some of the persons, whose cases

had been recommended along with them, had got sanctioned proceedings from the date of recommendation made by the Special Screening Committee. Therefore, the respondents are bound to sanction the Freedom Fighters Pension to them with effect from the date of recommendation of cases by the Screening Committee with all consequential arrears. It is pertinent to submit that they had already deprived of the benefits and privileges provide to the Freedom Fighters, not only from the date of submission of their applications but also from the date of recommendation made by the Screening Committee. Therefore, on justifiable ground, they are claiming only monitory benefits with consequential arrears from the date of recommendation made by the screening committee. Further it is stated that though all recommended cases had been referred to the State Government vide D.O. Letter No.8/9/90/FF(P), dated 02-07-1998 of the special Secretary, Ministry of Home Affairs, the State Government had not followed any procedure or method in conducting inquiries and submitting reports to the respondents. Similarly, the respondents had also not followed any procedure in sanctioning the pension and thereby several persons had got sanction proceedings prospectively with delay though their reports had been submitted long back and several persons had got sanction proceedings though their reports were submitted subsequently and thereby suffered monitory loss. It is stated that because of procedural irregularity and arbitrary decisions only, they are being suffered. Therefore, the respondents are bound to sanction their pension proceedings with all consequential arrears. In such circumstances, the petitioners approached this Court by

filing the present writ petition.

In the similar case in W.P.No.1204 of 2006 counter-affidavit has been filed, but no counter-affidavit is filed in the instant writ petition.

Certain other documents are shown. In the light of the respective stands taken by the parties, this Court is of the considered opinion that the rejection, in the facts and circumstances, cannot be sustained. Hence, the rejection is hereby set aside. Since in the light of the material placed before the Court, the issue may have to be reconsidered and accordingly the Writ Petition is disposed of directing the respondents to reconsider the whole issue in the light of the material placed before the Court, in the facts and circumstances, within a period of six weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of accordingly. No order as to costs.

Justice

P.S.Narayana

Dated 02nd November, 2007

skmr

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No. 15688 of 2006

Dated: 02nd November, 2007

BETWEEN:

Ambati Venkataiah and others

.. Petitioners

And

The Under Secretary, Freedom
Fighters Division, Ministry of
Home Affairs, I Floor, Khan Market,
New Delhi and another

.. Respondents

